

**VIRGINIA BOARD OF NURSING
FORMAL HEARINGS
November 19, 2009**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 9:10 A.M. on November 19 2009 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico Virginia.

**BOARD MEMBERS
PRESENT:**

Lynne M. Cooper, Citizen Member, President
Brenda Hale, R.N.
Jeanne Holmes, Citizen Member
Evelyn Lindsay, L.P.N.
Karen K. Schultz, Ph.D., M.B.A., Citizen Member

STAFF PRESENT:

Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Jodi P. Power, R.N., J.D., Deputy Executive Director
Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director (joined later)
Amy Davis, Administrative Assistant
Donna Lee, Senior Discipline Specialist (joined later)

OTHERS PRESENT:

Howard M. Casway, Senior Assistant Attorney General
Nursing students from John Tyler Community College; Bon Secours School of Nursing; Southampton School of Nursing; Henrico County – St. Mary’s School of Nursing; Nurse Aide students from Parkview High School; Louisa County High School

**ESTABLISHMENT OF
A QUORUM:**

With five members of the Board present, a quorum was established.

FORMAL HEARINGS:

Catherine Taylor, R.N. Reinstatement Applicant 0001-135136
Ms. Taylor appeared, accompanied by her husband, Ronald Taylor.

Amanda Mitchell, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lynn Taylor, court reporter, recorded the proceedings.

CLOSED MEETING:

Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 9:30 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Taylor. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Power, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 9:50 A.M.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Ms. Holmes moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Mitchell and amended by the Board.

The motion was seconded and carried unanimously.

ACTION: Ms. Hale moved that the Board of Nursing reinstate the professional nursing license of Catherine Taylor and issue her an unrestricted nursing license with multistate privileges to practice.

The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

FORMAL HEARINGS: **Phyllis Garner, C.N.A. 1401-019140**

Ms. Garner did not appear.

Mary Beth Shelton, Adjudication Specialist, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lynn Taylor, court reporter, recorded the proceedings.

Cynthia Lee, R.N. Assistant Director of Nursing, Consulate Health Care; Kim Martin, Senior Investigator, Department of Health Professions were present and testified.

CLOSED MEETING: Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:20 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Garner. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

Ms. Garner arrived at 10:25 A.M. and the Board was informed.

RECONVENTION: The Board reconvened in open session at 10:40 A.M.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

The Board questioned Ms. Garner regarding her late arrival and advised her the Board would defer the conclusion on this matter until later in the day allowing Ms. Garner the opportunity to question witnesses and to testify.

Mary Beth Shelton, Adjudication Specialist, requested the witnesses be released, the Board decided witnesses can be released but should be available in person or by telephone when the case is reconvened.

RECESS: At 10:45 A.M. the hearing was recessed and reconvened at a later time.

FORMAL HEARINGS: **Jane Ott, R.N. 0001-139210**
Ms. Ott appeared, represented by attorney, John Wirth.

Amanda Mitchell, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lynn Taylor, court reporter, recorded the proceedings.

Mr. Wirth renewed objections contained in his November 11, 2009 letter on the record and his request for a continuance due to not receiving documents requested via subpoena duces Tecum. The Board noted his objections and ruled the hearing would proceed. Mr. Wirth moved to exclude all witnesses, which the Board granted.

Ann Hardy, Senior Investigator, Department of Health Professions; Tiffany Newlen, L.P.N., Avanté of Waynesboro were present and testified.

RECESS: The Board recessed at 1:05 P.M.

RECONVENTION: The Board reconvened at 1:52 P.M. and continued with the testimony of witnesses.

Janet Dean, L.P.N., former employee of Avanté of Waynesboro; Ella Shipp, R.N., Augusta Nursing and Rehab Center; Lois Hartman, R.N., Augusta Health, Fishersville; Stella Baker; Greg Ott, were present and testified.

RECESS: The Board recessed at 3:45 P.M.

RECONVENTION: The Board reconvened at 3:54 P.M.

Ms. Mitchell joined the meeting and Ms. Power left the meeting at 5:45 P.M.

CLOSED MEETING: Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 6:10 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Ott. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.
The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 6:55 P.M.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Ms. Holmes moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Mitchell and amended by the Board.

The motion was seconded and carried unanimously.

ACTION:

Ms. Hale moved that the Board of Nursing reprimand Jane Ott and place her professional nursing license on probation for one year of nursing practice with terms.

The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Ms. Lee joined the meeting and Ms. Davis left the meeting.

FORMAL HEARINGS:

Ann Elizabeth Nutty, L.P.N. 0002-064477

Ms. Nutty appeared.

Wendell Roberts, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lynn Taylor, court reporter, recorded the proceedings.

CLOSED MEETING:

Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 8:15 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Nutty. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Mitchell, Ms. Lee and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 8:27 P.M.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Dr. Schultz moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Roberts and amended by the Board.

The motion was seconded and carried unanimously.

ACTION: Ms. Holmes moved that the Board of Nursing indefinitely suspend the practical nursing license of Ann Nutty, with said suspension stayed contingent upon Ms. Nutty's continued compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Ms. Lee left the meeting and Ms. Davis rejoined the meeting.

The Board reconvened the hearing regarding Ms. Garner at 9:05 P.M.

FORMAL HEARINGS: **Phyllis Garner, C.N.A. 1401-019140**
Ms. Garner appeared.

Mary Beth Shelton, Adjudication Specialist, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lynn Taylor, court reporter, recorded the proceedings.

CLOSED MEETING: Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 9:25 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Garner. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Mitchell, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 9:35 P.M.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Dr. Schultz moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Shelton and amended by the Board. The motion was seconded and carried unanimously.

ACTION: Ms. Hale moved that the Board of Nursing revoke the nurse aide certificate of Phyllis Garner with a finding of abuse. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

FORMAL HEARINGS: **Mary Hannah Turner, R.N. 0001-191421**
Ms. Turner did not appear.

Amanda Mitchell, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lynn Taylor, court reporter, recorded the proceedings.

CLOSED MEETING: Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 9:43 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Turner. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Mitchell, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 9:47 P.M.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Dr. Schultz moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Mitchell.

The motion was seconded and carried unanimously.

ACTION: Ms. Hale moved that the Board of Nursing continue the professional nursing license of Mary Hannah Turner on indefinite suspension until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice.

The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

ADJOURNMENT: The Board adjourned at 9:50 P.M.

Gloria D. Mitchell, R.N., M.S.N., M.B.A.
Deputy Executive Director